

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

ANTHONY DeFRANCO,)	
)	
Plaintiff,)	
)	Civil Action No. 04-230-ERIE
V.)	
)	Judge Maurice B. Cohill, Jr.
SUPERINTENDENT WILLIAM WOLF;)	Mag. Judge Susan P. Baxter
STEVE REILLY; DENESE BRUNNER;)	
MANAGER ROD SHOWERS; CASE)	
MANAGER JUDY JACKSON;)	
DR. JOHN DOE; JANE DOE;)	
JEFFREY BEARD; ASSIST. SUPER.)	
WILLIAM BARR; MARILYN)	
BROOKS,)	
Defendants.)	

**DEFENDANTS' RESPONSE TO PLAINTIFF'S MOTION
FOR ORDER TO COMPLY WITH SUBPOENA**

AND NOW, come the defendants, Superintendent William Wolfe, Steve Reilly, Denise Bunner (incorrectly identified as Denese Brunner), Unit Manager Rod Showers, Case Mgr.—GECAC Judy Jackson, Jeffrey Beard, Assistant to the Superintendent William Barr, and Marilyn Brooks (incorrectly identified as “Mariland”), by their attorneys, Thomas W. Corbett, Jr., Attorney General, Mary Lynch Friedline, Senior Deputy Attorney General, and Susan J. Forney, Chief Deputy Attorney General, Chief Litigation Section, and submit the following Response to Plaintiff’s Motion for Order to Comply with Subpoena (Doc. #212):

1. DeFranco’s latest motion (#212) and affidavit (#211) state that he has issued a subpoena to several non-parties, including a DOC psychiatrist and records custodian.
2. This is the first notice counsel for defendants has received of any third-party subpoenas. DeFranco failed to give advance notice of his intent to serve a subpoena as required by Fed. Rule Civ. Pr. 45(b).

3. Unless and until plaintiff complies with the rules concerning service, defendants cannot appropriately evaluate the information requested and if necessary, raise objections. Certainly the recipients of such subpoenas should not be required to comply until the parties in the case receive the required notice and opportunity to object.

WHEREFORE, defendants submit that plaintiff's Motion for Order to Comply with Subpoena (Doc. #212) is without merit and should be denied.

Respectfully submitted:

Thomas W. Corbett, Jr.
Attorney General

By: /s/ Mary Lynch Friedline
MARY LYNCH FRIEDLINE
Senior Deputy Attorney General
Attorney I.D. No. 47046
Susan J. Forney
Chief Deputy Attorney General
Litigation Section

Office of Attorney General
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Pittsburgh, PA 15219
Date: August 11, 2006

CERTIFICATE OF SERVICE

I hereby certify that on August 11, 2006, I electronically filed the foregoing *Response to Motion for Order to Comply with Subpoena (#212)* with the Clerk of Court using the CM/ECF system. This document will be mailed via U.S. mail to the following non CM/ECF participants:

Anthony DeFranco, CZ-3518
SCI-Albion
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By: /s/ Mary Lynch Friedline
MARY LYNCH FRIEDLINE
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